

Senate Bill 297

By: Senator Ramsey, Sr. of the 43rd

A BILL TO BE ENTITLED
AN ACT

To amend Part 7 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the termination, suspension, demotion, and reprimand of teachers and other school personnel, so as to provide that local units of administration adopt disciplinary procedures; to revise certain definitions; to revise certain provisions relating to establishment and contents of disciplinary policies; to revise certain provisions relating to supplemental rules and policies authorized; to revise certain provisions relating to appeals to the State Board of Education; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 7 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the termination, suspension, demotion, and reprimand of teachers and other school personnel, is amended by revising Code Section 20-2-940, relating to grounds and procedure for terminating or suspending contract of employment, as follows:

"20-2-940.

(a) *Grounds for termination or suspension.* Except as otherwise provided in this subsection, the contract of employment of a teacher, principal, or other employee having a contract for a definite term may be terminated or suspended for the following reasons:

(1) Incompetency;

(2) Insubordination;

(3) Willful neglect of duties;

(4) Immorality;

(5) Inciting, encouraging, or counseling students to violate any valid state law, municipal ordinance, or policy or rule of the local board of education;

(6) To reduce staff due to loss of students or cancellation of programs;

(7) Failure to secure and maintain necessary educational training; or

1 (8) Any other good and sufficient cause.

2 A teacher, principal, or other employee having a contract of employment for a definite term
3 shall not have such contract terminated or suspended for refusal to alter a grade or grade
4 report if the request to alter a grade or grade report was made without good and sufficient
5 cause.

6 (b) *Notice.* After an investigatory period provided pursuant to subsection (g) of this Code
7 section, but before ~~Before~~ the discharge or suspension, without pay, of a teacher, principal,
8 or other employee having a contract of employment for a definite term, written notice of
9 the charges shall be given at least ten days before the date set for hearing and shall state:

10 (1) The cause or causes for his or her discharge, suspension, or demotion in sufficient
11 detail to enable him or her fairly to show any error that may exist therein;

12 (2) The names of the known witnesses and a concise summary of the evidence to be used
13 against him or her. The names of new witnesses shall be given as soon as practicable;

14 (3) The time and place where the hearing thereon will be held; and

15 (4) That the charged teacher or other person, upon request, shall be furnished with
16 compulsory process or subpoena legally requiring the attendance of witnesses and the
17 production of documents and other papers as provided by law.

18 (c) *Service.* All notices required by this part relating to suspension from duty shall be
19 served either personally or by certified mail or statutory overnight delivery, return receipt
20 requested. All notices required by this part relating to demotion, termination, or
21 nonrenewal of contract, ~~or reprimand~~ shall be served by certified mail or statutory
22 overnight delivery, return receipt requested. Service shall be deemed to be perfected when
23 the notice is deposited in the United States mail addressed to the last known address of the
24 addressee with sufficient postage affixed to the envelope.

25 (d) *Counsel; testimony.* Any teacher, principal, or other person against whom such
26 charges listed in subsection (a) of this Code section have been brought shall be entitled to
27 be represented by counsel and, upon request, shall be entitled to have subpoenas or other
28 compulsory process issued for attendance of witnesses and the production of documents
29 and other evidence. Such subpoenas and compulsory process shall be issued in the name
30 of the local board and shall be signed by the ~~chairman~~ chairperson or ~~vice-chairman~~
31 vice-chairperson of the local board. In all other respects, such subpoenas and other
32 compulsory process shall be subject to Part 1 of Article 2 of Chapter 10 of Title 24, as now
33 or hereafter amended.

34 (e) *Hearing.*

35 (1) The hearing shall be conducted before the local board, or the local board may
36 designate a tribunal ~~to consist of not less than three nor more than five impartial persons~~
37 ~~possessing academic expertise~~ of the board to authorize an arbitrator possessing expertise

1 in school employment matters to conduct the hearing and submit ~~its~~ such arbitrator's
2 findings and recommendations to the local board for its decision thereon.

3 (2) The hearing shall be reported at the local board's expense. If the matter is heard by
4 a tribunal, the transcript shall be prepared at the expense of the local board and an
5 original and two copies shall be filed in the office of the superintendent. ~~If the hearing~~
6 ~~is before the local board, the transcript need not be typed unless an appeal is taken to the~~
7 ~~State Board of Education, in which event typing of the transcript shall be paid for by the~~
8 ~~appellant.~~ In the event of an appeal to the state board, the original shall be transmitted
9 to the state board as required by its rules.

10 (3) Oath or affirmation shall be administered to all witnesses by the ~~chairman~~
11 chairperson, arbitrator, ~~any member of the local board,~~ or by the local board attorney.
12 Such oath shall be as follows:

13 'You do solemnly swear (or affirm) that the evidence shall be the truth, the whole truth,
14 and nothing but the truth. So help you God.'

15 (4) All questions relating to admissibility of evidence or other legal matters shall be
16 decided by the ~~chairman~~ arbitrator or chairperson ~~or presiding officer,~~ subject to the right
17 ~~of either party to appeal to the full local board or hearing tribunal, as the case may be,~~
18 ~~provided, however, the parties by agreement may stipulate that some disinterested~~
19 ~~member of the State Bar of Georgia shall decide all questions of evidence and other legal~~
20 ~~issues arising before the local board or tribunal.~~ In all hearings, the burden of proof shall
21 be on the school system, and it shall have the right to open and to conclude. Except as
22 otherwise provided in this subsection, the same rules governing nonjury trials in the
23 superior court shall prevail.

24 (f) *Decision; appeals.* The local board shall render its decision at the hearing or within
25 ~~five~~ ten business days thereafter. ~~Where the hearing is before a tribunal, the tribunal~~
26 Where the finding is determined by a tribunal conducted by an arbitrator, the arbitrator
27 shall file ~~its~~ findings and recommendations with the local board within five days of the
28 publication of the findings and recommendations ~~the conclusion of the hearing,~~ and the
29 local board shall render its decision thereon within ten days after the receipt of the
30 transcript. Appeals may be taken to the state board in accordance with Code Section
31 20-2-1160, as now or hereafter amended, and the rules and regulations of the state board
32 governing appeals.

33 (g) *Superintendent's power to relieve from duty temporarily.* The superintendent of a local
34 school system may place on administrative leave, for investigative purposes, and
35 temporarily relieve from duty any teacher, principal, or other employee having a contract
36 for a definite term for any reason specified in subsection (a) of this Code section, pending
37 hearing by the local board in those cases where the charges are of such seriousness or other

1 circumstances exist which indicate that such teacher or employee could not be permitted
2 to continue to perform his or her duties pending hearing without danger of disruption or
3 other serious harm to the school, its mission, pupils, or personnel. In any such case, the
4 superintendent shall have five business days to notify the teacher or employee in writing
5 of such action, which notice shall state the grounds thereof and shall otherwise comply with
6 the requirements of the notice set forth in subsection (b) of this Code section. Such action
7 by the superintendent shall not extend for a period in excess of ten working days, at which
8 time ~~and during such period~~ it shall be the duty of the local board to conduct a hearing on
9 the charges in the same manner provided for in subsections (e) and (f) of this Code section,
10 except that notice of the time and place of hearing shall be given at least three days prior
11 to the hearing. During the period that the teacher or other employee is relieved from duty
12 prior to the decision of the local board, the teacher or employee shall be paid all sums to
13 which he or she is otherwise entitled. If the hearing is delayed after the ten-day period as
14 set out in this subsection at the request of the teacher or employee, then the teacher or
15 employee shall not be paid beyond the ten-day period. If the teacher ~~unless he~~ is reinstated
16 by the local board, ~~in which case he~~ or she shall receive all compensation to which he or
17 she is otherwise entitled. Nothing in this Code section shall prohibit all parties from
18 mutually agreeing to extend the time period for the hearing or arbitration.

19 SECTION 2.

20 All laws and parts of laws in conflict with this Act are repealed.